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ABSTRACT

The functions, prerogatives, and responsibilities of the New York State Boards for the several professions and of the executive secretary to the board are delineated. These boards assist the Board of Regents and the Department of Education on matters of professional licensing, practice, and professional conduct. The following aspects of board administration are covered: board meetings; bylaws; fiscal affairs; the board's functions concerning licensing examinations, evaluation of experience, and disciplinary proceedings; relations with professional organizations; relations with professional institutions and programs; communications; policy; and public members of the board. The executive secretary occupies a position within the structure of the Education Department and within the informal structure of a profession. Guidelines for per diem payments of members for time devoted to the work of the board are included. (SW)

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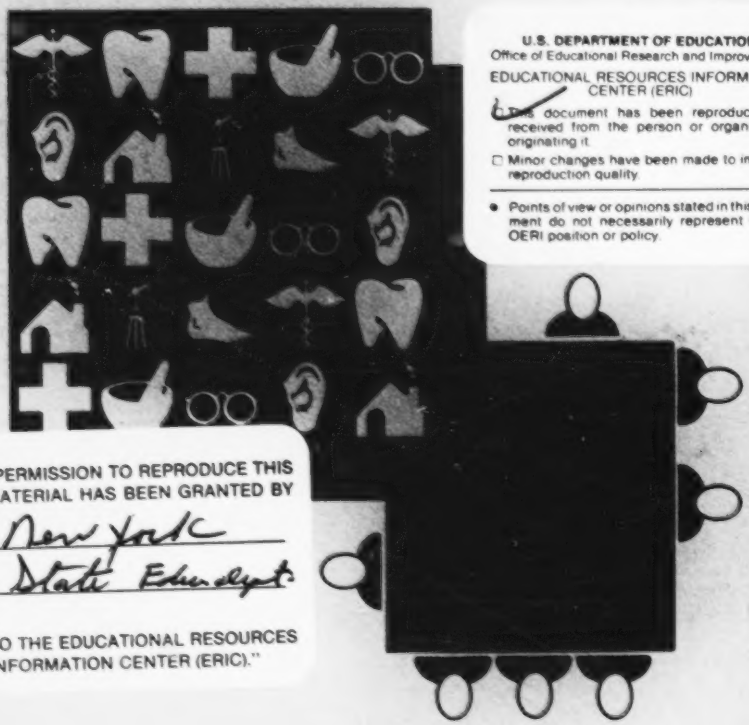
BOARDS FOR THE PROFESSIONS

A Statement of Background and Guidelines



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BOARDS FOR THE PROFESSIONS

A Statement of Background and Guidelines

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Office of the Professions
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October 1986

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Foreword

This document is intended to inform and guide Board members, staff and interested others with respect to the functions and responsibilities of Board members and Board Executive Secretaries. There is considerable variety among the 20 Boards and great complexity in the relationships of the Executive Secretaries and the Department, Board(s) and profession(s). Accordingly, this paper cannot answer all questions on the topics it addresses. There are, however, some fundamental truths which have been set forth; some are matters of law, others of rule or regulation, still others of policy, practical consideration or common sense.

To the extent this document provides helpful information, it is principally the result of two individuals' efforts. My predecessor as Assistant Commissioner for the Professions, Frank Abbott, did a masterful job of capturing the essence of the professional Boards and the Executive Secretaries in addition to conveying basic information. He authored the preceding version of this paper (1979) which we have left untouched wherever possible. Dan Szetela, Coordinator of Professional Education Services, has updated and supplemented the paper in his usual thorough and thoughtful way. The result is a document which can serve as a key reference for Boards and Department staff alike.

I am confident that you will find Boards for the Professions of interest now and on future occasions.

Assistant Commissioner for the Professions

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I. INTRODUCTION

The State Boards for the several professions function under statutory provisions and within a governmental structure defined in the Education Law. Comprehensive responsibility for the execution of that law and all of the duties set forth within it is vested in the Board of Regents and the Commissioner of Education. The Regents are the policy-making arm, and the Commissioner the executive arm, of educational government. Vital roles in both policy and administration are vested by law, rules and regulations in various bodies and individuals who are subject to the ultimate direction and control of the Regents and Commissioner. For effective operation of the total system it is essential that all components understand what is expected of them and what means, including authority, they may draw upon in order to fulfill those expectations.

This document sets forth background and guidelines relating to the duties, responsibilities, authority, and working relationships of the Boards and the officers having major responsibilities for the relationships of the Regents and the Department with the professions licensed under the authority of the Regents. Its principal aims are two:

1. To delineate the functions, prerogatives, and responsibilities of the Boards for the professions; and
2. To delineate the functions, prerogatives, and responsibilities of that departmental officer whose title is Executive Secretary to the Board.

* * *

State Boards for the professions are provided for in the Education Law. General provisions are set forth in Section 6508 while provisions for each professional area are included in sections specific to each profession, the latter stating that the Boards exist "for the purpose of assisting the board of regents and the department on matters of professional licensing and professional

conduct in accordance with section 6508 of this title."* Section 6508 provides, in part:

1. *A board for each profession shall be appointed by the board of regents on the recommendation of the commissioner for the purpose of assisting the board of regents and the department on matters of professional licensing, practice, and conduct. The composition of each board shall be as prescribed in the article relating to each profession. Within each board a committee on licensing may be appointed by the board chairman.*

2. *Each board, or its committee on licensing, shall select or prepare examinations, may conduct oral and practical examinations and reexaminations, shall fix passing grades, and assist the department in other licensing matters as prescribed by the board of regents.*

3. *Each board shall conduct disciplinary proceedings as prescribed in this article and shall assist in other professional conduct matters as prescribed by the board of regents.*

Additional subdivisions of Section 6508 address membership terms, allowances for per diem and expense connected with Board work, Board officers and their election, bylaws (which may be adopted "consistent with this title and approved by the Board of Regents"), and related matters.

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* This wording is the same for all professions except pharmacy, for which additional functions and powers are set forth (§6804), and veterinary medicine, where in addition the Board is directed to consult with and accept the assistance of a state committee of animal health technicians in areas relating to such technicians.

II. EXECUTIVE SECRETARY

Subdivision 7 of Section 6508 provides that "An executive secretary to each board shall be appointed by the board of regents on recommendation of the commissioner. Such executive secretary shall not be a member of the board, shall hold office at the pleasure of, and shall have the powers, duties and annual salary prescribed by the board of regents." Sections specific to the several professions similarly provide for appointment of the Executive Secretary by the Board of Regents on recommendation of the Commissioner. With respect to nine of the Boards, the Executive Secretary must be licensed in the profession: medicine, dentistry, pharmacy, nursing, engineering, architecture, public accountancy, psychology, and social work. Sections pertaining to the other professions do not include this requirement.

The Executive Secretary occupies a position within the structure of the Education Department, and within the informal "structure" of a profession that affords a great many opportunities for service, just as it involves a number of complexities of authority and role. Those complexities arise from relationships with the Regents and officers of the Department, from the policies and procedures of State government including but extending beyond those of the Department, and from interaction with a Board (or Boards) comprising outstanding individuals who, whatever the arrangements for payment of certain of their expenses and per diem, contribute in money as well as in time and expertise to the purposes of the State and who occupy positions as advisers of the State. They arise also from relationships with professional societies and educational institutions which are directly and significantly affected by policies and actions of the Boards and of the Department.

Within a complex set of expectations, the Executive Secretary is the agent first and foremost of the Regents and Department who employ him/her and at whose pleasure the Executive Secretary serves. Through the Coordinator of Professional Education Services, the Executive Secretary is answerable to the As-

sistant Commissioner for the Professions and through him to the Commissioner and Regents. The Executive Secretary executes functions of the Department relating to professional education, licensure, and conduct–important portions of which lie outside the purview of the Boards. The Executive Secretary is responsible for the execution of policies of the State and of the Department, including but not limited to those relating to the review of professional education programs and the administration of fiscal affairs, in all matters within his/her purview including matters relating to the Board(s).

But the Executive Secretary is the agent also of the Board, serving as the official channel for communications to and from the Board and providing administrative services for the Board relating to its meetings and virtually all of its functions. In most settings and circumstances, the Executive Secretary is the spokesperson for the Board.

In some respects the Executive Secretary is an "agent" also for professional groups outside the formal structure of the Department and the State Board, but which occupy positions of such importance for the accomplishment of Department objectives that intimate working relationships with such groups are necessary and appropriate. The Executive Secretary is a communications link with, and sometimes in behalf of, such groups. The Department relies upon the Executive Secretary for knowledge of programs, plans, and issues involving the profession, and of persons more knowledgeable than he or she may be about such matters. To such groups, in turn, the Executive Secretary is the natural channel for obtaining information, providing advice, conveying requests or proposals, and otherwise interacting with the Boards, the Regents, and the Department.

To the end that these many-sided and potentially-conflicting duties and roles may be carried out with a minimum of conflicts or lost motion, the following guidelines for Board administration are offered. These guidelines attempt to provide a structure for working relationships that will be productive and constructive; they do not attempt to include all functions, policies and procedures of the Regents and Department applicable to professional education, licensure, and conduct.

III. BOARD ADMINISTRATION

A. Meetings

— *Location*. Board meetings must be held within New York State at a time and place acceptable to the Department. In recommending meeting locations the Board must be sensitive to issues of cost, public interest, and propriety.

— *Agenda*. A tentative agenda and papers relating to the tentative agenda should be sent to each Board member at least one week prior to each regular meeting.

The tentative agenda should be initiated by the Executive Secretary and reviewed with the Board chairperson prior to its distribution to the Board. Additional items should be added to the agenda, at the request of the Executive Secretary or Board chairperson, prior to submission of the tentative agenda at the opening of the Board meeting for adoption by the Board.

— *Participation*. Regular participation of all Board members is expected in the meetings of the Board. Members who may find it necessary to miss substantial numbers of meetings or who feel they can no longer contribute to the Board should discuss their circumstances with the chairperson or Executive Secretary. When a member can no longer fully participate in Board activities, resignation from the Board should be considered. Unofficial meetings of the Board or meetings of selected members (other than official committees), with or without the Executive Secretary, are destructive of working relationships and are not authorized.

B. Bylaws

Bylaws for the regular conduct of the affairs of the Board may be adopted by the Board consistent with Title 8 of the Education Law, to be effective upon their approval by the Board of Regents. To facilitate their conformance with law and the Rules and Regulations, proposed bylaws should be developed by the Board and Executive Secretary in cooperation.

C. Fiscal Affairs

— *Budget*. Ultimate responsibility for accomplishing the work of the Board within the fiscal resources available for the Board rests with the Executive Secretary and may not be delegated. A Board may advise the Executive Secretary and Department of its views concerning fiscal requirements and priorities. In doing so a Board should recognize that, as is the case with other units within the Department, needs are often greater than the amounts that the Commissioner and Regents are able to request, and that the Department's requested budget is never fully funded by the Legislature. Moreover, all units within the Department operate, both in formulating budget requests and in administering appropriated funds, within constraints imposed by units outside the Department as well as constraints established by the Regents and Department. The Executive Secretary is required to be familiar with these constraints and to give effect to them.

— *Expenses of Board Members*. It is intended that the expenses of members incurred in Board work be reimbursed, subject to State and Department policy and to budget allocations. Reimbursement rules and procedures are generally established by the Office of the State Comptroller and apply not only to the State Boards, but to a wide array of State advisory groups and committees. The Executive Secretary is responsible for administering these policies and procedures in behalf of the Department. Travel for which reimbursement is to be requested should not be undertaken without prior approval. This is especially true for out-of-State travel which is subject to additional restrictions. In addition to reimbursement for certain expenses, it is intended that Board members be paid a per diem, currently $75, for each full day devoted to Board work, again subject to applicable policy and budget allocations. The Executive Secretary is the responsible Department officer for review and approval of expense and per diem claims. In the interest of equitable practice among the several Boards, guidelines for payment of per diem have been developed and appear as Section IV of this document.

D. Board Functions: Examinations, Evaluation of Experience, Discipline

In exercising its responsibilities relating to examinations, the evaluation of experience, and professional discipline, the Board develops policies and reviews and evaluates actions taken to carry out such policies. The Executive Secretary has responsibility for the application of such policies to specific cases and situations, including the development and maintenance of necessary records, compilation and submittal of reports, and other actions. Because of the interdependence of policy and administration, the Executive Secretary plays an important role in formulating proposals of policy and procedure for consideration and action of the Board.

E. Relations with Professional Organizations

Board members are often leaders in their respective professions and in the relevant state professional organizations. In many professions, however, significant numbers of practitioners are not members of such organizations, and in all professions the responsibilities of the Regents and Department, including the Boards, extend beyond the profession to the general public. Members of State Boards for the professions must keep in mind that service as officers or members of governing Boards of state associations in professions subject to regulation by the State Board may raise occasions of potential conflict of interest. Members should take special precaution to assure there is no conflict of interest or appearance of conflict where they serve in a role within a professional organization, or in a teaching or examination situation.

Effective communications and cooperation among professional societies, Boards, Executive Secretaries, and the Department are desirable avenues for accomplishment of shared goals. Acknowledging differences of responsibility and interest, Boards and Executive Secretaries as well as other officers of the Department should endeavor to maintain cooperation and good working relationships with professional societies.

F. Relations with Professional Institutions and Programs

Registration review of educational programs for the profession(s) served is a major responsibility of the Executive Secre-

tary. The Executive Secretary maintains information relating to current programs, visits such programs for registration or accreditation purposes, reviews and advises other Department officers on proposed new programs, and consults with the Coordinator of Professional Education Services and others as appropriate. The Executive Secretary also advises the Department on matters involving preprofessional, professional, continuing education and other related matters. Boards may formulate proposals for preprofessional, professional, and continuing education requirements relevant to their respective professions. Such proposals should be developed in cooperation with the Executive Secretary and forwarded for review and action by the Department and Regents.

G. Communications

Communications with and in behalf of a Board are regularly made through the Executive Secretary, functioning as the agent of the Board. In certain situations, such as national meetings of State Boards, the chairperson also acts as a spokesperson for the Board.

No member of the Board or of the Department should characterize a position as that of the Board or of the Department unless it has been officially adopted as such. However, the representation or communication of a departmental or of a Board position does not necessarily connote one's personal agreement with the position.

As entities of the Department, Boards are subject to regular departmental policy and procedure in the issuance of any public statement or the provision of testimony in legislative or other governmental hearings.

A Board may direct any communication to officers of the Department and to the Regents. Such communications should be directed through the Executive Secretary, to the Coordinator, Assistant Commissioner, Deputy Commissioner or Commissioner as may be appropriate.

Concerns or problems of a Board can occasionally become obstacles to effective action. Board chairs are invited to contact the Coordinator and/or Assistant Commissioner regarding important matters which they feel have not been satisfactorily ad-

dressed, either by the Executive Secretary or by other officials of the Department. In the interest of sound administration this invitation should not be viewed as establishing parallel or alternative procedures to those set forth elsewhere in this paper. However, if serious and unresolvable problems arise the Coordinator and/or Assistant Commissioner should be consulted. One way to help keep channels of communication open is for officials of the Department and chairs of the Boards to meet periodically and review items of mutual interest. Such meetings are subject to the call of the Assistant Commissioner who sets the agenda in consultation with both Department officials and Board chairs.

H. Policy

A Board may recommend policy positions on any matters relating to professional licensure, practice and conduct. Such recommendations should be directed through the Executive Secretary to the Department and then to the Regents as appropriate.

Actions of Boards, including those involving policy positions, are subject to review and approval by both program and legal officers of the Department and of the Regents. By law, all actions are required to be consistent with Title 8. Consultation in advance of formal action should minimize the possibility of loss of time and effort in such matters.

I. Public Members

By law, each Board must have at least one "public representative" who is a "consumer of services" of the profession(s) for which the Board has responsibility. Public members are full members of the Boards to which they are appointed. They may serve as officers of the Board and (by law) must serve on disciplinary panels. Operationally, the Department makes no distinction between public members and members who are licensed.

J. Special Requirements

By law, all meetings of a State Board are open to the public. Executive sessions may be called during a meeting only for very limited purposes. In keeping with the spirit of open government executive sessions should be called only when and in the man-

ner provided for by law. The Executive Secretary is responsible for assuring strict compliance with requirements of the Open Meeting Law.

Minutes of all Board meetings are made available to the public upon request. Such minutes must record the vote of each member on each issue upon which the Board takes formal action. Law provides that a Board may not take an official action without an affirmative vote of a majority of the active membership of the Board. This makes attendance and participation at Board meetings particularly important.

IV. GUIDELINES FOR PER DIEM PAYMENTS

In coordinating the work of the professional Boards, the Executive Secretaries have the responsibility for determining and approving per diem payments of members for the time devoted to the work of the Board. Set forth here are the guidelines for per diem payments to members of professional Boards; these represent maximum amounts in each category that may be approved by the Executive Secretary. Not all categories apply to each Board. Any deviation from this schedule must be approved by the Department.

Although these categories identify specific amounts for specific actions, for purposes of submitting vouchers the amounts will be converted into per diems, or half per diems, with assigned dates.

(1) Attendance at meetings of the entire Board, committees of the Board, hearing panels, and other meetings all authorized by the Department, and in accordance with the procedure for prior approval: one per diem for each day of the meeting; up to one additional per diem may be approved by the Executive Secretary for purposes of travel when substantial additional time is necessitated because of travel distance.

(2) Writing examination questions, grading or regrading examination papers, and evaluating applications may be paid for at the rate of $10 per hour of work required. (NOTE: The Department prefers that such evaluations be made at regular meetings of the Board or of its committee(s).)

(3) Observation or participation in administering examinations: one per diem for each day or part thereof; up to one additional per diem may be approved by the Executive Secretary for purposes of travel when substantial additional time is necessitated because of travel distance.

(4) Consultation with the Office of Professional Discipline or other appropriate units or officers of the Department may be

paid for at the normal per diem rate in instances where such consultation is both formal and requires a significant commitment of time on the Board member's part.